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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,869	09/21/2000	Thomas Vaughn Wilder	DAREDEV.018RA	4598
20995 7590 11/28/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
RESTIPO, JEFFREY J				
ART UNIT		PAPER NUMBER		
3618				
NOTIFICATION DATE		DELIVERY MODE		
11/28/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com

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Office Action Summary

Application No.

09/669,869

Applicant(s)

WILDER ET AL.

Examiner

Jeffrey J. Restifo

Art Unit

3618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-53 is/are pending in the application.
- 4a) Of the above claim(s) 29-35 and 46-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-28 and 36-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/21/2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notices of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/5/08 has been entered.

Election/Restrictions

2. Newly submitted claims 29-35 and 46-53 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The method were not present in the original parent application not part of the originally filed claims in the reissue application.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-35 and 46-53 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 5, 6, 12, 13, 17-20, 22-24, 26-28, 36-38, 40-43, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 5,533,740 A) and in further view of Forward et al. (US 4,034,995 A).

Lin discloses an in-line skate comprising a heel attachment member or flanged section 30 with mounting holes 310, a forefoot attachment member or flanged section 20 with mounting holes 210, a pair of left and right laterally spaced elongate longitudinal support or chassis members 11 with lower parallel portions with wheels 50 attached and upper portions attaching said heel and forefoot members, and chamfered connecting webs forming openings between the wheels, as shown in figures 1-3. Lin does not disclose the longitudinal frames as being inclined and convergent at the upper portions. Forward et al. does disclose a skate having inclined and convergent members 31, 32, forming an A-frame for securing the wheels 24 to skate 11, as shown in figures 12 and 22. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Lin with the inclined and convergent members of Forward et al. in order to allow the longitudinal member to accommodate wider wheels.

With respect to claims 28 and 39, the angle that the edges converge is not considered patentable unless it produces an unexpected result and therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to

have angled the upper edges of the chassis members of Lin as modified by Forward et al. at an angle between 60-88 degrees relative to the lower portion in order to accommodate a wheel within that width range.

With respect to claim 27, the method of forming the chassis has been given little patentable weight unless it produces an unexpected result and welding is a well-known method for forming metal skates and it would have been obvious to one having ordinary skill in the art at the time of the invention to have welded the chassis members together in order to provide a strong connection with the web members, which is a well-known benefit in the art of welding.

5. Claims 2, 3, 7-11, 16, 21, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin, as modified by Forward et al., as applied to claims 1, 5, 13, 22, and 36 above, and further in view of Hoshizaki (US 5,505,470 A).

Neither Lin nor Forward et al. disclose ribs, elongate openings, rockerable axle holes, or unibody construction on the chassis. Hoshizaki does disclose a skate comprising rockerable axle holes 5, ribs (not numbered), horizontal elongate hole (not numbered), and unibody construction, as shown in figures 1-8. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Lin as modified by Forward et al. with the rockerable axles, ribs, elongate holes, and unibody construction of Hoshizaki in order to adjust the height of each wheel, increase lateral strength, decrease weight, and increase connection rigidity of the skate chassis, respectively.

With respect to claim 8, the material used to make the skate has been given little patentable weight unless it produces an unexpected result, and the use of aluminum is well-known in the art and it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the skate chassis of Lin as modified by Forward et al. and Hoshizaki, out of aluminum in order to have a strong yet lightweight chassis, which is a well-known benefit of aluminum.

Response to Arguments

6. Applicant's arguments with respect to claims 1-13 and 16-53 have been considered but are moot in view of the new ground(s) of rejection. The recapture rejection has been removed in light of the applicant's arguments and further review.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey J Restifo
Primary Examiner
Art Unit 3618

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Primary Examiner, Art Unit 3618